

MULTISTATE TAX COMMISSION

Resolution No. 00-5

**Resolution in Support of States Achieving Disclosure to Consumers
of Their Potential Liability for Use Taxes**

WHEREAS, there is a widespread misperception on the part of consumers that they do not owe any taxes on their purchases from remote sellers, and this is despite the fact that a growing number of States provide information about the obligation in the personal income tax booklet; and

WHEREAS, the listing in mail-order catalogues, on Internet websites, and in other advertisements of the States whose residents must remit sales taxes with their orders contributes to this misperception by suggesting to consumers that they do not owe taxes if their State is not so listed; and

WHEREAS, many States have undertaken activities to increase their efforts to collect use taxes directly from consumers and have entered into interstate agreements to expand and coordinate their interstate sales/use tax collection programs; and

WHEREAS, these state enforcement actions are leading to an ever-growing number of consumers finding themselves subject to unexpected use tax assessments (sometimes years after their purchase) plus penalties and interest; and

WHEREAS, all merchants have an obligation to inform their customers of the true, total cost of their purchases and any after-sale conditions attached to the ownership or use of the product being purchased; and

WHEREAS, the failure of certain sellers to inform their customers in an adequate manner of the true cost of their purchases has justifiably led to government regulatory actions mandating disclosure, for example, of the true, effective rate of interest on consumer installment loans and of real estate settlement costs; and

WHEREAS, the legal obligation to pay use taxes is an additional element of the cost of making remote purchases and direct marketers are, of course, well aware of this; and

WHEREAS, too few direct marketers include any disclosure to consumers of their obligation to remit use taxes to their state revenue agency if the direct marketer does not collect the tax; now, therefore, be it

RESOLVED, that the Multistate Tax Commission urge all direct marketers to include in all of their sales solicitations, written and oral, a disclosure that their customers may owe use taxes on their purchases and should contact their tax agencies for information on how they may fulfill this obligation; and be it further

RESOLVED, that the Multistate Tax Commission respectfully urge the Attorneys General of the various States to investigate whether their existing consumer protection laws provide state law grounds for finding that the failure of direct marketers to disclose to customers a potential use tax liability constitutes an unfair and/or deceptive trade practice and, if so, to consider enforcement action against direct marketers on such grounds.

Adopted this 28th day of July 2000 by the Multistate Tax Commission.